

Notification No. R. 6408—Agri. 99-07-2, dated 3rd April 1908.

The following Resolution No. 2493-2507—15, dated the 11th March 1908, from the Government of India, Department of Commerce and Industry, (Emigration), placing certain restrictions on immigration into the Transvaal Colony, is hereby published for general information:—

By Order,

C. S. BALASUNDARAM IYER,

Offg. Secy. to Govt., Gen. & Rev. Depts.

No. 2493-2507—15.

GOVERNMENT OF INDIA.

DEPARTMENT OF COMMERCE AND INDUSTRY.

EMIGRATION.

RESOLUTION.

Dated Calcutta, the 11th March 1908.

The Government of India have received from His Majesty's Secretary of State for India a copy of an Act which has been passed by the Transvaal Government to place restrictions on immigration into the Colony, to provide for the removal therefrom of prohibited immigrants and other persons and to establish and maintain an Immigration Department. The more important provisions of the Act are published for general information.

ACT No. 15 OF 1907.

Be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of the Transvaal as follows:—

1. The Peace Preservation Ordinance 1903 shall be and is hereby repealed; provided that no such repeal shall affect or abridge any powers or jurisdiction by the Asiatic Law Amendment Act 1907 conferred for the purpose of carrying out such Act; but the said Ordinance shall for all the purposes of such Act be deemed to remain of full force and effect.

2. In this Act and in any regulation made thereunder unless inconsistent with the context, Interpretation of terms.

"department" shall mean the Immigration Department established and maintained under the provisions of this Act;

"Governor" shall mean the officer for the time being administering the Government of this Colony acting by and with the advice of the Executive Council;

"imprisonment" shall mean imprisonment with or without hard labour as the court sentencing an offender to imprisonment may direct;

"magistrate" shall include a resident magistrate and an assistant resident magistrate of any district of the Colony;

"Minister" shall mean the Colonial Secretary or such other Minister to whom the Governor may from time to time assign the carrying out of this Act;

"minor" shall mean any person under the age of sixteen years;

"police officer" shall mean any member of a police force lawfully established in this Colony;

"prohibited immigrant" shall mean and include any of the following classes of persons desiring to enter or entering this Colony after the date of the taking effect of this Act;

(1) any person who when asked whether within or outside this Colony by a duly authorized officer shall be unable through deficient education to write out (from dictation or otherwise) and sign in the characters of an European language an application for permission to enter this Colony or such other document as such officer may require; provided that for the purposes of this sub-section Yiddish shall be accepted as an European language; provided further that

(a) if the Minister publish a notice in the Gazette that arrangements have been made with the Government of any country for regulating the admission to this Colony of the subjects or citizens of such country such subjects or citizens shall not while such notice is in force be required to comply with the provisions of this sub-section;

- (b) the Minister shall not issue any such notice unless such arrangements have been sanctioned by resolution of both Houses of Parliament;
- (c) any such notice shall cease to have effect as soon as it is cancelled by further notice of the Minister in the *Gazette*;
- (2) any person who has not in his possession or at his disposal means to support himself for a reasonable time within this Colony or who is likely to become a public charge if he were allowed to enter therein;
- (3) any prostitute or person living on the earnings of prostitution or procuring women for immoral purposes;
- (4) any person who at the date of his entering or attempting to enter this Colony is subject or would if he entered this Colony be subject to the provisions of any law in force at such date which might render him liable either at such date or thereafter if found therein to be removed from or to be ordered to leave this Colony whether on conviction of an offence against such law or for failure to comply with its provisions or otherwise in accordance with its provisions; provided that such conviction be not the result of the commission by such person elsewhere than in this Colony of an offence for which he has received a free pardon;
- (5) any person who is a lunatic within the meaning of the Lunacy Proclamation 1902 or any amendment thereof;
- (6) any person who is a leper or is suffering from such infectious or contagious disease of a loathsome or dangerous character as may from time to time be prescribed by regulation;
- (7) any person who owing to information officially received by the Minister from any Secretary of State or from a member of any Colonial Government (whether British or foreign) or through diplomatic channels from an officer of any foreign state is deemed by the Minister to be an undesirable;
- (8) any person who the Minister has reasonable grounds for believing would be dangerous to the peace order and good Government of this Colony if he entered therein; but shall not include—
 - (a) members of His Majesty's regular forces;
 - (b) the officers and crew of any public ship of a foreign state;
 - (c) any person who is duly accredited to this Colony by or under the authority of His Majesty or of the Government of a foreign state together with his wife, family and servants;
 - (d) any person who has served in any of His Majesty's volunteer forces in South Africa and has received a good discharge and who does not come within the scope of sub-sections (3), (4), (5), (6), (7) or (8) of the definition of "prohibited immigrant";
 - (e) the wife or minor child of any person who is not a "prohibited immigrant";
 - (f) any European person who has been at any time lawfully resident within this Colony and who has not under the provisions of any law been removed from or ordered to leave this Colony;
 - (g) any Asiatic who is eligible for or has obtained a certificate of registration under the Asiatic Law Amendment Act 1907 and who does not come within the scope of sub-sections (3), (4), (5), (6), (7) or (8) of the definition of "prohibited immigrant";
 - (h) descendants of the aboriginal races of Africa south of the Equator who do not come within the scope of sub-sections (3), (4), (5), (6), (7) or (8) of the definition of "prohibited immigrant";
 - (i) European persons who are agricultural or domestic servants, skilled artisans, mechanics, workmen or miners who are able to produce a certificate signed by the Agent General of this Colony in England or by an officer in England or elsewhere appointed for the purpose by the Governor to the effect that the person named therein has been engaged to serve immediately on arrival in this Colony an employer therein of repute at an adequate remuneration and for a reasonable period of time; provided that such persons do not come within the scope of any sub-section of the definition of "prohibited immigrant" other than sub-section (2);

"regulation" shall mean any regulation made under section *fifteen* of this Act.

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5. Every prohibited immigrant entering into or found within this Colony shall be guilty of an offence and shall be liable on conviction.

Penalties for prohibited immigration.

(1) to a fine not exceeding one hundred pounds or in default of payment to imprisonment for a period not exceeding six months or to both such fine and such imprisonment; and

(2) to be removed at any time from the Colony by warrant under the hand of the Minister and pending such removal to be detained in such custody as may by regulation be prescribed; provided that

(a) such prohibited immigrant may be discharged from such detention if he find two approved sureties in this Colony (each in the sum of one hundred pounds) for his leaving the Colony within one month;

(b) if such prohibited immigrant be sentenced to imprisonment such imprisonment shall terminate as soon as he is removed from the Colony.

6. Any person who

(a) is convicted after the date of the taking effect of this Act of a contravention of sections *three, thirteen or twenty-one* of the Immorality Ordinance 1903 or any amendment of such sections; or

Removal from Colony of certain persons convicted under Immorality Ordinance 1903 and of dangerous persons.

(b) is deemed by the Minister on reasonable grounds to be dangerous to the peace order and good Government of this Colony if he remain therein; or

(c) having been ordered under any law to leave this Colony fails to comply with the terms of such order;

may be arrested and removed from this Colony by warrant under the hand of the Minister and pending removal may be detained in such custody as may be prescribed by regulation; provided that no such person as is in paragraph (b) hereof described shall be removed from this Colony except on the order of the Governor; provided further that every such person arrested shall be discharged from custody unless an order be made by the Governor for his removal from this Colony within ten days after the date of his arrest.

7. Any person who

Offences of aiding or being accessory to prohibited immigration.

(1) wilfully aids or abets a prohibited immigrant in entering or remaining in this Colony; or

(2) wilfully aids or abets a person ordered to be removed under section *six* in remaining in this Colony; or

(3) enters into or purports to enter into a contract as employer with any person outside this Colony with intent that the provisions of this Act be evaded or at the time of entering into or purporting to enter into such contract shall be unable to fulfil his part thereof or has no reasonable expectation of being so able; or

(4) uses or attempts to use any certificate issued under paragraph (i) of the classes of persons excluded from the definition of "prohibited immigrant" unless he be the lawful holder of such certificate; or

(5) forges or uses knowing the same to be forged any document purporting to be such certificate;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or in default of payment to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

8. No prohibited immigrant shall be entitled to obtain a license to carry on in this Colony

Prohibited immigrant not to obtain a license to carry on trade or calling or acquire interest in land.

any trade or calling or to acquire therein any interest in land whether leasehold, freehold or other interest; and any such license (if obtained) or any contract deed or other document by which such interest is acquired in contravention of

this section shall on conviction of such immigrant under section *five* of this Act be null and void.

9. Every person found in this Colony who is reasonably suspected of being a prohibited

Arrest without warrant of persons suspected of being prohibited immigrants.

immigrant may be arrested without warrant by any magistrate, justice of the peace, police officer or officer of the department and shall as soon as possible be brought before a Court of resident Magistrate to be dealt with according to law.

10. No prohibited immigrant shall be exempt from the provisions of this Act or allow-

Prohibited immigrant not exempt from Act by reason that he was allowed to enter through oversight.

ed to remain in this Colony by reason only that he had not been informed that he could not enter this Colony or that he may have been allowed to enter through oversight or owing to the fact being undiscovered that he was a prohibited immigrant.

11. Any person ordered to be removed from this Colony under this Act and any other

Prohibited immigrant, etc., and person assisting him liable to pay expense of his removal and custody.

person who shall have been convicted under section *seven* of aiding or abetting him in entering or remaining in the Colony in contravention of this Act shall be liable to pay all expenditure incurred by the Government in carrying out such removal

whether from the Colony or South Africa or in the detentions within the Colony or elsewhere of any person pending his removal; and the amount of such expenditure on production to the Sheriff of the certificate of an officer of the department stating the items and total amount of such expenditure shall be recovered by execution levied on the property within the Colony of the person so liable in manner provided for execution levied under a judgment of the Supreme Court; and the proceeds of such execution shall be paid by the Sheriff to the Treasurer who after deduction of the amount of expenditure aforesaid and the costs of execution shall remit the balance to the person so liable or to any person appointed by him to receive same.

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13. The burden of proving that a person has not entered or remained in this Colony in contravention of this Act or any regulation shall in any prosecution for such contravention lie upon the accused person.

14. Every Court of resident Magistrate shall have jurisdiction to impose the maximum penalties for all contraventions of this Act or of any regulation.

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16. This Act may be cited for all purposes as the Immigrants Restriction Act, 1907, and shall not take effect unless and until the Governor shall proclaim in the *Gazette* that it is His Majesty's pleasure not to disallow the same and thereafter it shall take effect upon such date as the Governor shall notify by proclamation.

ORDERED that a copy of the Resolution be forwarded, for information and guidance, to the Local Governments and Administrations noted in the margin, and to the Home and Foreign Departments, for information.

The Government of Madras.
Do Bombay.
Do Bengal.
Do the United Provinces.
Do the Panjab.
Do Burma.
Do Eastern Bengal and Assam.
The Hon'ble the Chief Commissioner of the Central Provinces.
The Chief Commissioner of Coorg.
Do Ajmer-Merwara.
The Hon'ble the Chief Commissioner of the North-West Frontier Province.
Do Agent to the Governor General in Beluchistan.

Ordered also, that it be published in the supplement to the *Gazette of India*.

M. M. S. GUBBAY,
Under-Secy. to the Govt. of India.